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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,217	01/02/2004	Kenneth K. Cyr	CRNL111419	6647
46169 7590 02/22/2008 SHOOK, HARDY & BACON L.L.P. Intellectual Property Department 2555 GRAND BOULEVARD KANSAS CITY, MO 64108-2613				
EXAMINER				
SEREBOFF, NEAL				
ART UNIT		PAPER NUMBER		
3626				
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02/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/750,217

**Applicant(s)**

CYR ET AL.

**Examiner**

Neal R. Sereboff

**Art Unit**

3626

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-15, 18-25 and 28-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-15, 18-25 and 28-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Notice to Applicant/ Response to Amendment*

1. In the amendment dated 12/7/2007, the following has occurred: Claims 1, 7 – 9, 11, 18, 19, 21, 24 and 28 – 30 have been amended; Claims 6, 16, 17, 26 and 27 have been canceled. Now claims 1 - 5, 7 - 15, 18 - 25 and 28 - 30 are pending.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. ***Claim 1 – 5, 7 – 10*** are rejected under 35 U.S.C. 102(e) as being anticipated by Zimmerman et al., U.S. Pre-Grant Publication Number 2004/ 0098286.
5. As per claim 1, Zimmerman teaches a system for managing clinically related supply procurement, comprising:
  - A first interface to receive patient supply data captured from at least one clinically related site, the patient supply data comprising items used and/or consumed during a clinical event (figure 2A, items 30, 32, 54 and 55);

- A second interface to receive care provider preference data for said clinical event from the at least one clinically related site (figure 2A, Item 32); and
- An analytic engine, the analytic engine communicating with the first interface and the second interface to generate analytic reports that compare alternative supply selection options for equivalent items based on prices supplied by at least to vendors (paragraph 56 where the statement followings “that” is considered intended use or is considered nonfunctional descriptive information and therefore has no patentable weight. Additionally, customizing reports based upon prices was old and well known to someone of ordinary skill in the art as evidenced by Boise et al., U.S. Pre-Grant publication number 2003/ 0023500 Background of the Invention section).

6. As per claim 2, Zimmerman teaches the system of claim 1 as above. Zimmerman further teaches a system wherein the patient supply data further comprises at least one of surgical device information, pharmaceutical information, and consumable material information (paragraph 34, surgical device information and medication).

7. As per claim 3, Zimmerman teaches the system of claim 1 as above. Zimmerman further teaches a system wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (paragraph 26, hospital facility or testing lab).

8. As per claim 4, Zimmerman teaches the system of claim 1 as above. Zimmerman further teaches a system wherein the care provider preference data comprises a preference card (paragraph 34).

9. As per claim 5, Zimmerman teaches the system of claim 1 as above. Zimmerman further teaches a system wherein the preference card comprises selections for at least one of surgical

devices, pharmaceutical selections and consumable material selections (paragraph 34, surgical device information and medication).

10. As per claim 7, Zimmerman teaches the system of claim 1 as above. Zimmerman further teaches a system wherein the analytic report comprises volumetric pricing information as a function of alternative supply selections (paragraph 47 where a report is created and the exact report is intended use or non-functional descriptive information and therefore has no patentable weight).

11. As per claim 8, Zimmerman teaches the system of claim 1 as above. Zimmerman further teaches a system wherein the analytic report comprises correspondence ratings between care provider preference data and alternative supply selections (paragraph 47 where a report is created and the exact report is intended use or non-functional descriptive information and therefore has no patentable weight).

12. As per claim 9, Zimmerman teaches the system of claim 1 as above. Zimmerman further teaches a system wherein the analytic report comprises reports on the patient supply data broken down according to at least one of clinical procedure type, clinical department, patient demographic categories, and cost ranges selections (paragraph 47 where a report is created and the exact report is intended use or non-functional descriptive information and therefore has no patentable weight).

13. As per claim 10, Zimmerman teaches the system of claim 1 as above. Zimmerman further teaches a system wherein the care provider preference data is updated according to updated clinical supply policies (see abstract where the policy is a demographic conflict).

14. *Claims 11 – 15, 18 – 25 and 28 – 30* are rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmerman et al., U.S. Pre-Grant Publication Number 2004/ 0098286 in view of Motte et al., U.S. Pre-Grant publication number 2004/0108140.

15. As per claim 11, Zimmerman teaches a method for managing clinically related supply procurement, comprising:

- Receiving patient supply data captured from at least one clinically related site, the patient supply data comprising items used and/or consumed during a clinical event (paragraph 47).

Zimmerman does not explicitly teach the method comprising:

- Performing comparisons between alternative supply selections, wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections from two or more vendors;
- Generating a comparative report that shows the alternative supply selections from two or more vendors; and
- Storing the comparative report.

However, Motte teaches the method comprising:

- Performing comparisons between alternative supply selections, wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections from two or more vendors (paragraph 31);
- Generating a comparative report that shows the alternative supply selections from two or more vendors (paragraphs 33 – 35 where the supply information is stored within a

database and reports are available where the exact report represents a design choice and is therefore not patentable or paragraphs 44 – 46); and

- Storing the comparative report (paragraph 34).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add these features into Zimmerman. One of ordinary skill in the art would have added these features into Zimmerman with the motivation to allow buyers and suppliers to negotiate directly for the sale of goods and services (Motte paragraph 2). Additionally, the combination of Motte into Zimmerman would create the expected result of defining a marketplace for products required by Zimmerman.

16. As per claim 12, Zimmerman in view of Motte teaches the method of claim 11 as described above. Zimmerman further teaches the method wherein the patient supply data further comprises at least one of surgical device information, pharmaceutical information, and consumable material information (paragraph 34, surgical device information and medication).

17. As per claim 13, Zimmerman in view of Motte teaches the method of claim 11 as described above. Zimmerman further teaches the method wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (paragraph 26, hospital facility or testing lab).

18. As per claim 14, Zimmerman in view of Motte teaches the method of claim 11 as described above. Zimmerman further teaches the method wherein the care provider preference data comprises a preference card (paragraph 34).

19. As per claim 15, Zimmerman in view of Motte teaches the method of claim 14 as described above. Zimmerman further teaches the method wherein the preference card comprises selections for at least one of surgical devices, pharmaceutical selections and consumable material selections (paragraph 34, surgical device information and medication).

20. As per claim 18, Zimmerman in view of Motte teaches the method of claim 11 as described above.

Zimmerman does not explicitly teach the method wherein the comparative report comprises correspondence ratings between care provider preference data and alternative vendor supply selections.

However, Motte further teaches the method wherein the comparative report comprises correspondence ratings between care provider preference data and alternative vendor supply selections (paragraph 37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add these features into Zimmerman. One of ordinary skill in the art would have added these features into Zimmerman with the motivation to allow buyers and suppliers to negotiate directly for the sale of goods and services (Motte paragraph 2). Additionally, the combination of Motte into Zimmerman would create the expected result of defining a marketplace for products required by Zimmerman.

21. As per claim 19, Zimmerman in view of Motte teaches the method of claim 11 as described above.

Zimmerman teaches the method comprising a step of generating comparative reports on the patient supply data broken down according to at least one of clinical procedure type, clinical



department, patient demographic categories, and cost ranges (paragraph 47 where a report is created and the exact report is intended use or non-functional descriptive information and therefore has no patentable weight).

Also, Motte further teaches the method comprising a step of generating comparative reports on the patient supply data broken down according to at least one of clinical procedure type, clinical department, patient demographic categories, and cost ranges (paragraphs 121 and 132 where the information found on the report is considered non-functional descriptive information).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add these features into Zimmerman. One of ordinary skill in the art would have added these features into Zimmerman with the motivation to allow buyers and suppliers to negotiate directly for the sale of goods and services (Motte paragraph 2). Additionally, the combination of Motte into Zimmerman would create the expected result of defining a marketplace for products required by Zimmerman.

22. As per claim 20, Zimmerman in view of Motte teaches the method of claim 11 as described above. Zimmerman further teaches the method comprising a step of updating the care provider preference data according to updated clinical supply policies (see abstract where the policy is a demographic conflict).

23. As per claim 21, Zimmerman teaches one or more computer-readable media having computer-executable instructions embodied thereon for performing a method for generating a clinically related supply policy, the method comprising:

- Receiving patient supply data captured from at least one clinically related site, the patient supply data comprising items used and/or consumed during a clinical event (paragraph 47).

Zimmerman does not explicitly teach the method comprising:

- Performing comparisons between alternative supply selections, wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections;
- Generating a comparative report that shows the alternative supply selections; and
- Storing the comparison report.

However, Motte teaches the method comprising:

- Performing comparisons between alternative supply selections, wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections;
- Generating a comparative report that shows the alternative supply selections; and
- Storing the comparison report.

It would have been obvious to one of ordinary skill in the art at the time of the invention to add these features into Zimmerman. One of ordinary skill in the art would have added these features into Zimmerman with the motivation to allow buyers and suppliers to negotiate directly for the sale of goods and services (Motte paragraph 2). Additionally, the combination of Motte into Zimmerman would create the expected result of defining a marketplace for products required by Zimmerman.

24. As per claim 22, Zimmerman in view of Motte teaches the method of claim 21 as described above. Zimmerman further teaches the method wherein the patient supply data further

comprises at least one of surgical device information, pharmaceutical information, and consumable material information (paragraph 34, surgical device information and medication).

25. As per claim 23, Zimmerman in view of Motte teaches the method of claim 21 as described above. Zimmerman further teaches the method wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (paragraph 26, hospital facility or testing lab).

26. As per claim 24, Zimmerman in view of Motte teaches the method of claim 21 as described above. Zimmerman further teaches the method comprising receiving care provider preference data for said clinical event from the at least one clinically related site, wherein the care provider preference data comprises a preference card (paragraph 34).

27. As per claim 25, Zimmerman in view of Motte teaches the method of claim 21 as described above. Zimmerman further teaches the method wherein the preference card comprises selections for at least one of surgical devices, pharmaceutical selections and consumable material selections (paragraph 34, surgical device information and medication).

28. As per claim 28, Zimmerman in view of Motte teaches the method of claim 21 as described above.

Zimmerman does not explicitly teach the computer-readable media wherein the comparative report comprises correspondence ratings between care provider preference data and alternative vendor supply selections.

However, Motte teaches the computer-readable media wherein the comparative report comprises correspondence ratings between care provider preference data and alternative vendor supply selections (paragraph 37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add these features into Zimmerman. One of ordinary skill in the art would have added these features into Zimmerman with the motivation to allow buyers and suppliers to negotiate directly for the sale of goods and services (Motte paragraph 2). Additionally, the combination of Motte into Zimmerman would create the expected result of defining a marketplace for products required by Zimmerman.

29. As per claim 29, Zimmerman in view of Motte teaches the method of claim 24 as described above.

Zimmerman does not explicitly teach the computer-readable media wherein the comparative report comprises generating the comparative reports broken down according to at least one of clinical procedure type, clinical department, patient demographic categories, vendor information and cost ranges.

However, Motte teaches the computer-readable media wherein the comparative report comprises generating the comparative reports broken down according to at least one of clinical procedure type, clinical department, patient demographic categories, vendor information and cost ranges (paragraph 37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add these features into Zimmerman. One of ordinary skill in the art would have added these features into Zimmerman with the motivation to allow buyers and suppliers to negotiate directly for the sale of goods and services (Motte paragraph 2). Additionally, the combination of Motte into Zimmerman would create the expected result of defining a marketplace for products required by Zimmerman.

30. As per claim 30, Zimmerman in view of Motte teaches the method of claim 24 as described above. Zimmerman further teaches the computer-readable media comprising a step of updating the care provider preference data according to updated clinical supply policies (see abstract where the policy is a demographic conflict).

***Response to Arguments***

31. Applicant's arguments with respect to claims 1 – 30 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hoffman et al., U.S. Pre-Grant Publication Number 2003/ 0069774

DeBusk et al., U.S. Patent Number 6,085,943

Boies et al., U.S. Pre-Grant Publication Number 2003/ 0023500

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neal R. Sereboff whose telephone number is (571) 270-1373. The examiner can normally be reached on Mon thru Thur from 7:30am to 5pm, with 1st Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NRS/  
1/9/2008

/Robert Morgan/  
Primary Examiner, Art Unit 3626